

## **Assembly Bill No. 637**

### **CHAPTER 118**

An act to amend Sections 20537, 21677, and 22899 of, and to add Sections 20027.5 and 20538 to, the Government Code, relating to retirement.

[Approved by Governor August 5, 2009. Filed with  
Secretary of State August 6, 2009.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 637, Hill. Public Employees' Retirement System: contracting agencies.

The Public Employees' Retirement Law permits any public agency, as defined, to enter into a contract to participate in the Public Employees' Retirement System, as specified. That law also authorizes the Board of Administration of the Public Employees' Retirement System to establish a deferred compensation program for California public employees. The Public Employees' Medical and Hospital Care Act authorizes the Board of Administration of the Public Employees' Retirement System to contract with carriers for health benefit plans and major medical plans for employees and annuitants, as defined. Participation in the system and these benefit programs is funded by employer and employee contributions.

This bill would require contributions made by a contracting agency under the provisions described above to be paid through an electronic funds transfer, as defined, that is prescribed by the Board of Administration of the Public Employees' Retirement System, as specified. The bill would authorize a contracting agency that is unable, for good cause, to comply with that requirement to apply to the board for a waiver.

The Public Employees' Retirement Law authorizes the Board of Administration of the Public Employees' Retirement System to charge interest, at a rate approximating the average rate received on moneys then being invested, on the amount of any payment due and unpaid by a contracting agency until payment is received.

This bill would instead authorize the board to charge interest at the actuarial interest rate on those amounts due and unpaid by a contracting agency.

*The people of the State of California do enact as follows:*

SECTION 1. Section 20027.5 is added to the Government Code, to read:

20027.5. (a) "Electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape, so as to order, instruct, or

authorize a financial institution to debit or credit an account. Electronic funds transfers shall be executed by one of the following methods:

(1) An automated clearinghouse debit in which the state, through its designated depository bank, originates an automated clearinghouse transaction debiting the person's bank account and crediting the state's bank account for the amount of the debit. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

(2) An automated clearinghouse credit in which the person, through his or her own bank, originates an entry crediting the state's bank account and debiting his or her own bank account. Banking costs incurred for the automated clearinghouse credit transaction charged to the state shall be paid by the person originating the credit.

(3) A Federal Reserve Wire Network transfer (Fedwire) originated by a person utilizing the national electronic payment system to transfer funds through the federal reserve banks, when that person debits his or her own bank account and credits the state's bank account. Electronic funds transfers may be made by Fedwire only if payment cannot, for good cause, be made according to paragraph (1) or (2), and the use of Fedwire is preapproved by the board. Banking costs incurred for the Fedwire transaction charged to the person and to the state shall be paid by the person originating the transaction.

(b) For purposes of this section, "automated clearinghouse" means any federal reserve bank, or an organization established in agreement with the National Automated Clearing House Association, that operates as a clearinghouse for transmitting or receiving entries between banks or bank accounts and which authorizes an electronic transfer of funds between these banks or bank accounts.

SEC. 2. Section 20537 of the Government Code is amended to read:

20537. The board may charge interest on the amount of any payment due and unpaid by a contracting agency until payment is received. Interest shall be charged at the actuarial interest rate. The interest shall be deemed interest earnings for the year in which the late payment is received.

SEC. 3. Section 20538 is added to the Government Code, to read:

20538. (a) All amounts due to the retirement system by a contracting agency under this part shall be paid through an electronic funds transfer method prescribed by the board. This payment requirement is effective upon declaration by the board.

(b) A contracting agency that is unable, for good cause, to comply with subdivision (a), may apply to the board for a waiver that allows the agency to pay in an alternate manner as prescribed by the board, but not by credit card payment.

SEC. 4. Section 21677 of the Government Code is amended to read:

21677. The Public Employees' Deferred Compensation Fund shall consist of the following sources and receipts and disbursements shall be accounted for as set forth below:

(a) Premiums determined by the board and paid by employers and plan participants for the cost of administering the deferred compensation program.

(b) Asset management fees as determined by the board assessed against investment earnings of investment options or other investments funds provided by the board to either the state or other public employers. Asset management fees shall be disclosed to plan participants.

(c) Deferrals or contributions to be paid monthly by participating employers or plan participants for investment by the board pursuant to this article. The moneys shall be deposited in the investment corpus account within the Public Employees' Deferred Compensation Fund, and invested in accordance with the fund option or fund selected by the plan participants.

(1) Deferrals or contributions paid by a contracting agency shall be paid through an electronic funds transfer method prescribed by the board. This payment requirement is effective upon declaration by the board.

(2) A contracting agency that is unable, for good cause, to comply with paragraph (1), may apply to the board for a waiver that allows the agency to pay in an alternate manner as prescribed by the board, but not by credit card payment.

(d) Disbursements to plan participants shall be paid from a disbursement account within the Public Employees' Deferred Compensation Fund, in accordance with current federal law pertaining to tax-deferred savings plans.

(e) The board shall offer a savings account equivalent plan among those deferred compensation accounts made payable to plan participants.

(f) Income, of whatever nature, earned on the Public Employees' Deferred Compensation Fund shall be credited to the appropriate account. Participant accounts shall be individually posted to reflect net asset value for each fund in which the participant invests.

(g) The board has the exclusive control of the administration and investment of the Public Employees' Deferred Compensation Fund.

SEC. 5. Section 22899 of the Government Code is amended to read:

22899. (a) The contributions required of a contracting agency, along with contributions withheld from salaries of its employees, shall be forwarded monthly, no later than the 10th day of the month for which the contribution is due. The contributions shall be credited to the Public Employees' Contingency Reserve Fund as specified by Section 22910.

(1) Deferrals or contributions paid by a contracting agency shall be paid through an electronic funds transfer method prescribed by the board. This payment requirement is effective upon declaration by the board.

(2) A contracting agency that is unable, for good cause, to comply with paragraph (1), may apply to the board for a waiver that allows the agency to pay in an alternate manner as prescribed by the board, but not by credit card payment.

(3) For the purpose of this subdivision, "electronic funds transfer" has the same meaning as that set forth in Section 20027.5.

(b) A county superintendent of schools shall draw requisitions against the county school service fund and the funds of the respective school districts for the amount equal to the total of the employer contributions and the employee contributions deducted from compensation paid from those funds. The amounts shall be deposited in the county treasury to the credit of the

contract retirement fund established pursuant to Section 20617. The county superintendent thereafter shall draw his or her requisitions against the fund in favor of the board which, when allowed by the county auditor, shall constitute warrants against the fund and shall forward the warrants to the board in accordance with this section.

(c) If a contracting agency fails to remit the contributions when due, the agency may be assessed interest at an annual rate of 10 percent and the costs of collection, including reasonable legal fees, when necessary to collect the amounts due. In the case of repeated delinquencies, the contracting agency may be assessed a penalty of 10 percent of the delinquent amount. That penalty may be assessed once during each 30-day period that the amount remains unpaid. Additionally, the contracting agency may be required to deposit one-month's premium as a condition of continued participation in the program.